

TENTATIVE

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

RESOLUTION NO. R9-2002-0108

AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO REGION (9) TO INCORPORATE TOTAL MAXIMUM DAILY LOADS (TMDLs) FOR NUTRIENTS IN THE RAINBOW CREEK WATERSHED, SAN DIEGO COUNTY

WHEREAS, The California Regional Water Quality Control Board, San Diego Region (hereinafter, Regional Board), finds that:

1. **BASIN PLAN AMENDMENT:** The proposed amendment of the Water Quality Control Plan for the San Diego Region (Basin Plan) described in the recitals below was developed in accordance with Water Code Section 13240 et seq.
2. **NECESSITY STANDARD:** Amendment of the Basin Plan to establish, and require implementation of, total maximum daily loads (TMDLs) for Rainbow Creek is necessary because water quality in Rainbow Creek cannot satisfy applicable water quality objectives for nutrients even with implementation of waste discharge requirements containing technology based effluent limits or water quality based effluent limits for discharges of pollutants to Rainbow Creek and its tributaries. These TMDLs for nutrients are necessary to ensure attainment of applicable water quality objectives and restoration of beneficial uses designated for Rainbow Creek.
3. **CLEAN WATER ACT SECTION 303(d):** Rainbow Creek is currently identified on the Clean Water Act Section 303(d) list of impaired waters due to excessive nutrient concentrations. Section 303(d) requires the Regional Board to develop and implement TMDLs under the conditions that exist in Rainbow Creek.
4. **BENEFICIAL USES:** Rainbow Creek supports a multitude of beneficial uses. The most sensitive beneficial uses are those designated for protection of aquatic life as described in the Basin Plan definition of the COLD and WARM beneficial uses.
5. **WATER QUALITY OBJECTIVES:** The Basin Plan establishes the following numerical water quality objective for biostimulatory substances for the protection of the COLD and WARM beneficial uses:

Total Nitrogen 1.0 mg/l
Total Phosphorus 0.1 mg/l
6. **WATER QUALITY OBJECTIVE EXCEEDANCES:** Nutrient levels in Rainbow Creek must be lower than the above water quality objectives for biostimulatory substances to support the beneficial uses without unreasonable impairment.

Concentrations for nutrients in Rainbow Creek routinely exceed applicable water quality objectives.

7. **TOTAL MAXIMUM DAILY LOADS:** This Basin Plan amendment establishes the total maximum daily load (TMDL) of nutrients which Rainbow Creek can receive and still meet water quality objectives. The amendment further allocates this TMDL to all contributing sources of nutrients in the watershed by establishing wasteload allocations for all point sources and load allocations for all non point sources and background sources of nutrients in the watershed. Finally a portion of the TMDL is also set aside as a margin of safety.
8. **IMPLEMENTATION MEASURES BY COUNTY OF SAN DIEGO:** The TMDLs in this Basin Plan amendment will be implemented pursuant to Water Code Section 13225 as follows:
 - a. **INVESTIGATIONS:** The Regional Board will direct the County of San Diego to undertake an investigation to assess nutrient loadings to Rainbow Creek from groundwater and septic tank systems. The County of San Diego has indicated a willingness to undertake this investigation.
 - b. **ORDINANCES:** The Regional Board will request the County of San Diego to enforce any existing water quality control ordinances and adopt new ordinances as necessary to attain the nutrient load reduction objectives of this Basin Plan amendment.
 - c. **LAND USE PLANNING AND CEQA:** Pursuant to the County of San Diego's local planning and land use authority, the Regional Board will request the County to review and revise its land use policies and decision making practices; project approval processes; and environmental review processes to ensure that new development in the Rainbow Creek watershed does not contribute to exceedances of any nutrient wasteload or load allocation described in this Basin Plan amendment. For example diligent performance of environmental review under CEQA and requirements for mitigation of the adverse environmental consequences to water quality of new development and detrimental agricultural practices, can significantly reduce nutrient loading to Rainbow Creek.
 - d. **NUTRIENT REDUCTION MANAGEMENT PLAN:** The Regional Board will request the County of San Diego to develop and implement a Nutrient Reduction and Management Plan (NRMP) containing best management practices for agriculture and nurseries, septic tank systems, residential areas, existing and new development, and other sources of nutrients in the Rainbow Creek watershed. The NRMP will also include community outreach and assistance programs.
 - e. **MONITORING STRATEGY:** The Regional Board will direct the County of San Diego to develop and implement a monitoring and reporting program to

evaluate 1) ambient water quality in Rainbow Creek, 2) the effectiveness of the NRMP and 3) the effectiveness of the nutrient load reductions established in this Basin Plan amendment.

9. **MS4 PERMIT:** The Waste Discharge Requirements for discharges of urban runoff associated with Municipal Separate Storm Sewer Systems (MS4) in the County of San Diego contained in Order No. 2001-01, NPDES No. CAS0108758, require the County to reduce sources of pollutants, including nutrients, associated with urban development. These requirements are applicable to any areas in the Rainbow Creek watershed where the County operates and maintains an MS4.
10. **EXISTING WASTE DISCHARGE REQUIREMENTS:** The Regional Board will review and, if necessary, revise waste discharge requirements for existing dischargers in the Rainbow Creek watershed to incorporate effluent limitations in conformance with the TMDLs established in this Basin Plan amendment.
11. **EXISTING WASTE DISCHARGE PROHIBITIONS:** Prohibitions against discharges of waste that cause pollution or nuisance, described in the Basin Plan, including discharges of nutrients that would cause or contribute to violation of water quality objectives are applicable to landowners in the Rainbow Creek watershed. Dischargers of nutrients in the Rainbow Creek watershed shall comply with all applicable waste discharge prohibitions contained in the Basin Plan.
12. **NEW WASTE DISCHARGE REQUIREMENTS AND PROHIBITIONS:** To the extent that voluntary actions by landowners fail to attain conformance with nutrient load reductions established in this Basin Plan amendment, the Regional Board may consider adoption of new waste discharge requirements for land owners and new Basin Plan waste discharge prohibitions applicable to nutrient discharges in the Rainbow Creek watershed.
13. **ENFORCEMENT AUTHORITY OF REGIONAL BOARD:** The Regional Board will use its enforcement authority as necessary to ensure compliance with waste discharge requirements and Basin Plan waste discharge prohibitions.
14. **CEQA DOCUMENT REVIEW BY REGIONAL BOARD:** The Regional Board should review and comment on environmental documents (e.g., notice of preparations, negative declarations, and environmental impact reports) for new development projects in the Rainbow Creek watershed. Review of these documents will help assure that nutrient issues are addressed and mitigated, if necessary, in accordance with the TMDLs..
15. **SCIENTIFIC PEER REVIEW:** The scientific basis of this Basin Plan amendment has undergone external peer review pursuant to Health and Safety Code Section 57004. The Regional Board has considered and responded to all comments submitted by the peer review panel.

16. **IMPLEMENTATION CHAPTER OF BASIN PLAN:** This Basin Plan amendment amends the implementation chapter of the Basin Plan (Chapter 4) to establish TMDLs for nutrients in the Rainbow Creek Watershed and includes a program to implement the TMDLs.
17. **ECONOMIC ANALYSIS:** The Regional Board has considered the costs of implementing this Basin Plan amendment, and finds these costs to be reasonable relative to the water quality benefits derived from implementing the amendment.
18. **DE MINIMUS ENVIRONMENTAL EFFECTS:** The Regional Board has prepared environmental documentation. This Basin Plan amendment results in no potential for adverse effect, either individually or cumulatively, on wildlife.
19. **PUBLIC NOTICE:** The Regional Board has notified all known interested parties and the public of its intent to consider adoption of this Basin Plan amendment.
20. **PUBLIC HEARING:** The Regional Board has, at a public meeting on May 8, 2002, held a public hearing and heard and considered all comments pertaining to this Basin Plan amendment.

NOW, THEREFORE, BE IT RESOLVED that

1. **AMENDMENT ADOPTION:** The Regional Board hereby adopts this amendment to the implementation chapter of the Basin Plan (Chapter 4) to incorporate the Rainbow Creek Nutrients TMDLs as set forth in Attachment A hereto.
2. **CERTIFICATE OF FEE EXEMPTION:** The Executive Officer is authorized to sign a Certificate of Fee Exemption.
3. **AGENCY APPROVALS:** The Executive Officer is directed to submit the Basin Plan amendment to the State Water Resources Control Board (State Board) in accordance with California Water Code Section 13245. The Regional Board requests that the State Board approve the Basin Plan amendment and forward it to Office of Administrative Law (OAL) and the United States Environmental Protection Agency for approval.
4. **NON-SUBSTANTIVE CORRECTIONS:** If, during the approval process for this amendment, the State Board or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Regional Board of any such changes.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Diego Region, on May 8, 2002.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer